

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No. 2:19-cr-19
(Judge Kleehe)

ROGER D. CLEM, JR. and
ALTON L. SKINNER, II,

Defendants.

ORDER GRANTING GOVERNMENT'S UNOPPOSED
MOTION TO DISMISS INDICTMENT [DTK. NO. 48]

Pending in this matter is the *Unopposed Motion to Dismiss Indictment* [Dkt. No. 48] filed by the Government. The motion is brought pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and seeks dismissal of the Indictment [Dkt. No. 1] against Defendants Roger D. Clem, Jr. and Alton L. Skinner, II, without prejudice. Attached to the motion are non-prosecution agreements that the Government has reached with Defendants [Dkt. Nos. 48-1 and 48-2].

The Government correctly states that the Court's discretion is very limited when considering a motion to dismiss an indictment pursuant to Rule 48(a) [Dkt. No. 48 at 1 (citing United States v. Goodson, 204 F.3d 508, 512-13 (4th Cir. 2000))]. The motion should be decided "by determining whether the prosecutor acted in good faith at the time he moved for dismissal. A motion that is not motivated by bad faith is not clearly contrary to manifest public

interest, and it must be granted.” See United States v. Smith, 55 F.3d 157, 159 (4th Cir. 1995). The Government further states in its motion that Defendants do not object to the motion and that the parties agree that the motion is motivated exclusively by the good faith resolution outlined in the non-prosecution agreements [Dkt. No. 48 at 2].

Unlike the Government’s prior motion to continue [Dkt. No. 40] under 18 U.S.C. § 3161(h)(2), the Court need not consider the substance of the non-prosecution agreements or weigh any Speedy Trial Act issue. The Government has elected to dismiss the Indictment as to both Defendants pursuant to non-prosecution agreements as is within its discretion. Therefore, the motion to dismiss [Dkt. No. 48] is **GRANTED** and the matter is **DISMISSED** without prejudice.

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to transmit copies of this Order to counsel of record and the appropriate agencies.

DATED: October 22, 2019

/s/ Thomas S. KleeH
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE